

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Prophet Hakiym Joaquin Foy Al-Mahdi,

Civil No. 18-1332 (DWF/DTS)

Plaintiff,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

David Paul, Warden/et al.; Mr. Cooper,  
Acting Warden - Associate Warden;  
and Mr. Clore, Food Administrator, et al.,  
in their own official and individual  
capacities as penal authorities on this  
prison compound,

Defendants.

This matter is before the Court upon Plaintiff Prophet Hakiym Joaquin Foy Al-Mahdi's ("Plaintiff") objections (Doc. Nos. 8, 9 & 10) to Magistrate Judge David T. Schultz's September 25, 2018 Report and Recommendation (Doc. No. 7) insofar as it recommends that: (1) this matter be dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B) and (2) Plaintiff's application to proceed *in forma pauperis* be denied.

The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. Briefly, this case involves Plaintiff's allegations that the removal of salt shakers, salt packets, and certain juices from the available items at commissary and the mess hall at FMC-Rochester violate Plaintiff's constitutional and religious rights. In the Report and Recommendation, the Magistrate Judge construed Plaintiff's *pro se* complaint liberally and viewed Plaintiff's allegations as true, but found that Plaintiff did not adequately plead

a constitutional violation. Therefore, the Magistrate Judge recommended that Plaintiff's IFP application be denied and the case be dismissed without prejudice.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). After carefully considering Plaintiff's objections, the Court finds no reason to depart from the Magistrate Judge's recommendation. Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised, the Court hereby enters the following:

### **ORDER**

1. Plaintiff Prophet Hakiym Joaquin Foy Al-Mahdi's objections (Doc. Nos. [8], [9] & [10]) to Magistrate Judge David T. Schultz's September 25, 2018 Report and Recommendation are **OVERRULED**.

2. Magistrate Judge David T. Schultz's September 25, 2018 Report and Recommendation (Doc. No. [7]) is **ADOPTED**.

3. This matter is **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B).

4. The application to proceed *in forma pauperis* of plaintiff Prophet Hakiym Joaquin Foy Al-Mahdi (Doc. No. [2]) is **DENIED**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: October 17, 2018

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge